

Commonwealth of Massachusetts
BERKSHIRE SUPERIOR COURT
Case Summary
Civil Docket

BECV2003-00226
Santore v Coons et al

RECEIVED
Clerk's Office
U.S.D.C., MASS.
Date 12/9/03
By [Signature]
Deputy Clerk

File Date	08/01/2003	Status	Disposed: transfered to other court (dtrans)
Status Date	12/08/2003	Session	A - Civil A - CtRm 1
Origin	1	Case Type	B03 - MV negligence/pers injury/prop dmg
Lead Case		Track	F

Service	10/30/2003	Answer	12/29/2003	Rule 12/19/20	12/29/2003
Rule 15	12/29/2003	Discovery	05/27/2004	Rule 56	06/26/2004
Final PTC	07/26/2004	Disposition	09/24/2004	Jury Trial	Unknown

PARTIES

Plaintiff Steven J. Santore Active 08/01/2003	Private Counsel 542032 Mitchell I Greenwald Katz Murphy & Greenwald 29 Wendell Avenue Pittsfield, MA 01201 Phone: 413-443-5957 Fax: 413-445-5888 Active 08/01/2003 Notify
Defendant Steven V. Coons Answered: 09/18/2003 Answered 09/18/2003	Private Counsel 545898 Dennis R Anti Morrison Mahoney & Miller 1500 Main Street Suite 2400 Springfield, MA 01115-5387 Phone: 413-737-4373 Fax: 413-739-3125 Active 09/18/2003 Notify
Defendant Dalton Health Group, LLC Served: 10/29/2003 Served (answr pending) 10/29/2003	Private Counsel 393260 Thomas E Peisch Conn Kavanaugh Rosenthal Peisch & Ford Ten Post Office Square Suite 400 Boston, MA 02109 Phone: 617-482-8200 Fax: 617-482-6444 Active 12/05/2003 Notify
	Private Counsel 648310 Michael R Bernardo Conn Kavanaugh Rosenthal Peisch & Ford 10 Post Office Square Boston, MA 02109 Phone: 617-482-8200 Fax: 617-482-6444 Active 12/05/2003 Notify

A True Copy

Attest

ENTRIES

Date	Paper	Text
08/01/2003	1.0	Complaint & civil action cover sheet filed

Commonwealth of Massachusetts
BERKSHIRE SUPERIOR COURT
Case Summary
Civil Docket

BECV2003-00226
Santore v Coons et al

Date	Paper	Text
08/01/2003		Origin 1, Type B03, Track F.
09/18/2003	2.0	ANSWER: Steven V Coons(Defendant)
09/18/2003	3.0	Uniform Counsel Certification of attorney Dennis R. Anti for Steven V. Coons, defendant filed
10/29/2003	4.0	SERVICE RETURNED: Dalton Health Group, LLC(Defendant). Service was made on 10/27/03 at 2:35 p.m. to wit, by delivering in hand to Tricia Bragdon, Administrator of Craneville Place, Dalton Health Group, LLC at 265 Main Street, Dalton MA 01226, filed.
12/05/2003	5.0	Notice of Appearance of Attorneys Thomas E. Peisch and Attorney Michael R. Bernardo for Defendant Dalton Health Group, LLC with Certificate of Service, filed.
12/05/2003	6.0	Notice of Filing of Notice of Removal, filed.
12/08/2003		Certified copies of file and docket entry mailed to U.S. District Court with receipt.

EVENTS

**CIVIL ACTION
COVER SHEET**

DOCKET NO.(S)

Document 6

Filed 12/09/2003

Trial Court of Massachusetts

Superior Court Department

County:



PLAINTIFF(S)

STEVEN J. SANTORE

DEFENDANT(S)

STEVEN COONS and
DALTON HEALTH GROUP, LLC

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (413) 443-5957
Mitchell I. Greenwald
Katz, Murphy & Greenwald
29 Wendell Avenue, Pittsfield, MA 01201
Board of Bar Overseers number: 542032

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B03

Motor vehicle negligence-

Personal Injury

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | |
|---|---------------------|
| 1. Total hospital expenses | \$ 6,190.00 |
| 2. Total Doctor expenses | \$ 2,969.00 |
| 3. Total chiropractic expenses | \$ |
| 4. Total physical therapy expenses | \$ 3,016.00 |
| 5. Total other expenses (describe) ... Miscellaneous Medical Expenses | \$ 5,363.00 |
| Subtotal | \$ 17,538.00 |

B. Documented lost wages and compensation to date

\$ 32,935.00

C. Documented property damages to date

\$

D. Reasonably anticipated future medical and hospital expenses

\$

E. Reasonably anticipated lost wages

\$

F. Other documented items of damages (describe)

\$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Left knee injury, including pre-patellar cyst (surgically removed) and chondromalacia of medial femoral condyle; lumbar and left hip injury.

TOTAL \$ 50,473.00

THE COMMONWEALTH OF MASSACHUSETTS
BERKSHIRE S.S. SUPERIOR COURT
CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

AUG 1 2003

ATTEST COPY

Richard Stigler
Attest:

Clerk
TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT None

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 07/01/03

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

SUPERIOR COURT

C. A. 03-226

STEVEN J. SANTORE, SR.,

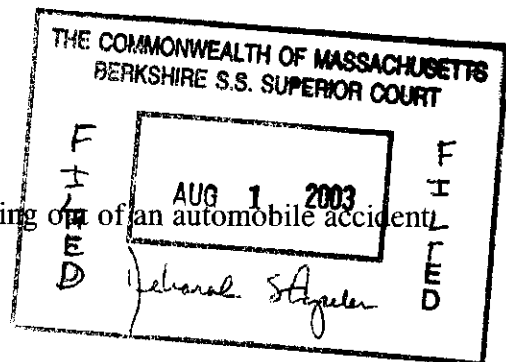
Plaintiff

v.

STEVEN V. COONS, and DALTON
HEALTH GROUP, LLC.

Defendants

COMPLAINT AND JURY DEMAND



1. This is an action for personal injuries arising out of an automobile accident.

PARTIES

2. Plaintiff Steven J. Santore, Sr. resides at 74 White Road, Ballston Spa, New York 12020-2118.

3. Defendant Steven V. Coons resides or did reside at 400 South Street, Pittsfield, Massachusetts 01201.

4. Defendant Dalton Health Group, LLC ("DHC"), is a Massachusetts limited liability company which does business as Craneville Place of Dalton at 265 Main Street, Dalton, Massachusetts.

FACTS

5. On August 2, 2000, plaintiff, a driver for Roadway Express, was assigned to make a delivery at the Dalton facility of defendant DHC. When he arrived at the said facility, it was clear to him that his truck would not be able to access the driveway, and he had been given no alternative delivery instructions. Accordingly, he stopped in front of the facility, taking all reasonable safety precautions, got out of the truck, and went to the rear of the truck to unload the goods.

6. While stepping down from the rear of his truck while preparing to unload, plaintiff was struck by a vehicle owned and operated by defendant Coons.

A True Copy

Attest:

Clerk

7. As a result of said collision, plaintiff has incurred medical expenses in an amount exceeding \$17,538.00. He has suffered lost earnings in the amount of at least \$32,935.00. He has suffered continued pain of body and mind and continued disability, and may need further surgery.

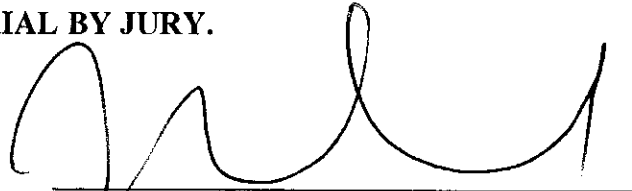
CLAIMS

8. The said injuries and damages were caused in part by the negligence of the defendant Coons in operating his motor vehicle.

9. The said injuries and damages were caused in part by the negligence of the defendant DHC in not providing and communicating a location and method for delivery of goods which was reasonably safe for the driver of the delivery vehicle.

WHEREFORE PLAINTIFF PRAYS:

1. That the Court award his damages to compensate him for his losses.
2. That the Court award such other relief as is just and equitable.
3. **PLAINTIFF DEMANDS A TRIAL BY JURY.**



MITCHELL I. GREENWALD
Attorney for Plaintiff
Katz, Murphy & Greenwald
A Professional Corporation
29 Wendell Avenue
Pittsfield, MA 01201
(413) 443-5957
BBO#: 542032

KATZ, MURPHY & GREENWALD
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
29 WENDELL AVENUE
PITTSFIELD, MASSACHUSETTS 01201-6300

THOMAS C. DOYLE
MITCHELL I. GREENWALD
DAVID W. MURPHY, JR.

DAVID C. KATZ (1964 - 1998)
SIDNEY I. KATZ (1930 - 1971)

TELEPHONE
(413) 443-5957
(413) 499-4747

FAX
(413) 445-5888

August 1, 2003

HAND-DELIVERED

Deborah S. Capeless, Clerk
Berkshire Superior Court
76 East Street
Pittsfield, MA 01201

RE: Steven J. Santore, Sr. v. Steven V. Coons, et al

Dear Ms. Capeless:

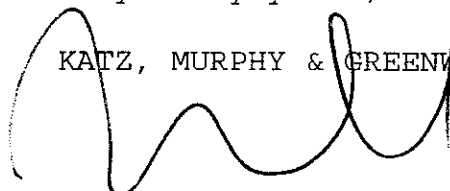
Enclosed for filing please find the following:

1. Complaint and Jury Demand;
2. Civil Action Cover Sheet; and
3. Our check number 11902 for \$215 as a filing fee.

Please call if you have any questions. Thank you for your courtesy.

Very truly yours,

KATZ, MURPHY & GREENWALD



Mitchell I. Greenwald

MIG:ob:L:\LIT\SANTORE\COURT.WPD

Enclosures

cc: Mr. Steven J. Santore, Sr. (w/encs.)

A True Copy

Attest


Clerk

County of Berkshire
The Superior Court**COPY**

CIVIL DOCKET# BECV2003-00226

RE: **Santore v Coons et al**TO: Mitchell I Greenwald, Esquire
Katz Murphy & Greenwald
29 Wendell Avenue
Pittsfield, MA 01201**TRACKING ORDER - F TRACK**

You are hereby notified that this case is on the **fast (F) track** as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION**DEADLINE**

Service of process made and return filed with the Court	10/30/2003
Response to the complaint filed (also see MRCP 12)	12/29/2003
All motions under MRCP 12, 19, and 20 filed	12/29/2003
All motions under MRCP 15 filed	12/29/2003
All discovery requests and depositions completed	05/27/2004
All motions under MRCP 56 filed and heard	06/26/2004
Final pre-trial conference held and firm trial date set	07/26/2004
Case disposed	09/24/2004

The final pre-trial deadline is **not the scheduled date of the conference**. You will be notified of that date at a later time.

Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

This case is assigned to session **A** sitting in
Superior Court-2nd Floor at Berkshire Superior Court.

Dated: 08/04/2003

Deborah S. Capeless,
Clerk of CourtsLocation: Superior Court-2nd Floor
Telephone: (413) 499-7487**A True Copy**Check website as to status of case: <http://ma-trialcourts.org/tcic>

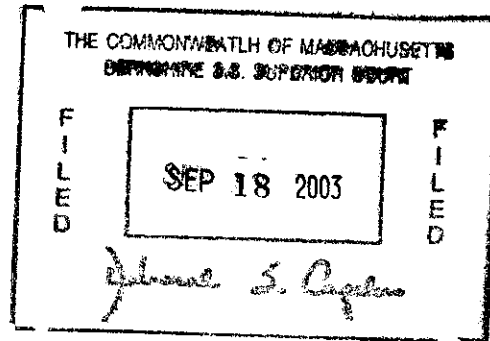
Deborah S. Capeless
Clerk

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO. BECV2003-00226STEVEN J. SANTORE,
Plaintiff

v.

STEVEN V. COONS and DALTON
HEALTH GROUP, LLC.
Defendants**ANSWER OF THE DEFENDANT, STEVEN V. COONS TO PLAINTIFF'S
COMPLAINT AND DEMAND FOR JURY TRIAL**

Answering the numbered paragraphs of the Plaintiff's Complaint, the Defendant, Steven V. Coons, admits, denies, and alleges as follows:

1. As there are no allegations against the defendant, Steven V. Coons, contained in this Paragraph of the Plaintiff's Complaint, no answer is required.

PARTIES

2. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.
3. The Defendant, Steven V. Coons, admits the allegations contained in this Paragraph of the Plaintiff's Complaint.
4. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.

FACTS

5. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.
6. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.

Attest: *[Signature]* Clerk

A TRUE COPY

7. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.

CLAIMS

8. The Defendant, Steven V. Coons, denies the allegations contained in this Paragraph of the Plaintiff's Complaint.
9. The Defendant, Steven V. Coons, is without knowledge and/or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Plaintiff's Complaint and therefore calls upon the Plaintiff to prove the same.

WHEREFORE, THE DEFENDANT, STEVEN V. COONS, DENIES THAT THE PLAINTIFF IS ENTITLED TO JUDGMENT AS DEMANDED.

FIRST AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that the action is barred by the applicable statute of limitations.

SECOND AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that if the plaintiff suffered injuries or damages, as alleged, such injuries or damages were caused by someone for whose conduct the defendant, Steven V. Coons, was not and is not legally responsible.

THIRD AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that the negligence of the plaintiff was greater than the alleged negligence of the defendant, Steven V. Coons, and that such negligence of the plaintiff contributed to his alleged injury and, therefore, the plaintiff is barred from recovery under M.G.L. c. 231, § 85.

FOURTH AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that the plaintiff was contributorily negligent and that the damages, if any, recovered by the plaintiff from the defendant, Steven V. Coons, should be reduced in proportion to the said negligence of the plaintiff in accordance with M.G.L. c. 231, § 85.

FIFTH AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that the amount of recovery for alleged conscious pain and suffering, if any, is limited to \$500,000.00 by the provisions set forth in M.G.L. c. 231, § 60H.

SIXTH AFFIRMATIVE DEFENSE

The defendant, Steven V. Coons, states that the plaintiff's recovery for past and future medical expenses is limited pursuant to the provisions of M.G.L. c. 231, § 60G.

SEVENTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the plaintiff is barred from recovery for insufficiency of service of process.

EIGHTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the plaintiff is barred from recovery for insufficiency of service.

NINTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant, Steven V. Coons, states that the plaintiff has failed to mitigate his damages and therefore is barred from recovery.

TENTH AFFIRMATIVE DEFENSE

The alleged incident resulted from dangers the risk of which the Plaintiff assumed

ELEVENTH AFFIRMATIVE DEFENSE

By way of Affirmative Defense, the defendant, Steven V. Coons, states that if the plaintiff was injured, it was the result of the plaintiff's breach of his own duty to exercise a high degree of personal care to protect and insure his own safety.

TWELFTH AFFIRMATIVE DEFENSE

By way of Affirmative Defense, the defendant, Steven V. Coons, states that the plaintiff may not recover for damages for any alleged pain and suffering including mental suffering associated with the alleged injury under M.G.L. c. 231 §6D.

THIRTEENTH AFFIRMATIVE DEFENSE

At the time of the alleged incident, the Plaintiff was guilty of a violation of law which contributed to the alleged accident.

JURY DEMAND

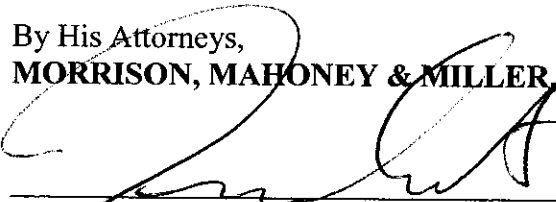
The Defendant, Steven V. Coons, demands a trial by jury on all issues.

WHEREFORE, the Defendant, Steven V. Coons, demands that:

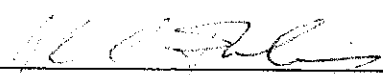
1. This case be dismissed; and
2. That he be awarded his costs.

The Defendant,
STEVEN V. COONS,

By His Attorneys,
MORRISON, MAHONEY & MILLER, LLP



Dennis R. Anti, Esquire, BBO# 545898



John C. Flahive, Esquire, BBO# 559166
1500 Main Street, Suite 2400
P.O. Box 15387
Springfield, MA 01115-5387
(413) 737-4373
(413) 739-3125 (Fax)

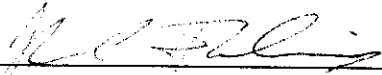
Dated: September 16, 2003

CERTIFICATE OF SERVICE

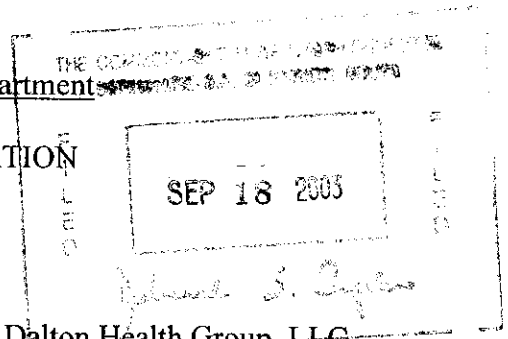
I, John C. Flahive, Esquire, of MORRISON, MAHONEY & MILLER, LLP, 1500 Main Street, Suite 2400, P.O. Box 15387, Springfield, Massachusetts 01115-5387, hereby certify that on the **17th** day of September, 2003, I caused the foregoing document to be served upon the other party or parties in this action by mailing a copy of the same, postage prepaid, first class mail to:

Mitchell I. Greenwald, Esquire
Katz, Murphy & Greenwald, P.C.
29 Wendell Avenue
Pittsfield, MA 01201

Pursuant to the provisions of Standing Order No. 1-88, I further certify that this document is filed within the designated time tracking standards for this case or by leave of the Regional Administrative Justice.



John C. Flahive, Esquire, BBO #559166

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURTBerkshire County Superior Court DepartmentUNIFORM COUNSEL CERTIFICATION
FOR CIVIL CASES

CASE NAME: Steven J. Santore v. Steven V. Coons and Dalton Health Group, LLC
 DOCKET # BECV2003-00226

I am attorney-of-record for: Steven V. Coons, defendant in the above-entitled matter.

In accordance with Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) which states in part: "... Attorneys shall: provide their clients with this information about court-connected dispute resolution services; discuss with their clients the advantages and disadvantages of the various methods of dispute resolution; and certify their compliance with this requirement on the civil cover sheet or its equivalent ...," I hereby certify that I have complied with this requirement.

 Signature of Attorney-of-Record

Dennis R. Anti
 Print Name

B.B.O. #: 545898

Date: September 16, 2003

This certification may be filed by counsel as is, or this text may be incorporated into a form currently in use at the initiation of a case (e.g., civil cover sheet, appearance form, etc.), as determined to be appropriate in each department of the Trial Court. Plaintiff's/Petitioners' counsel shall file this document at the time his/her initial pleading is filed. All other counsel shall file it within thirty (30) days of his/her initial entry into the case whether by answer, motion, appearance slip or other pleading.

A True Copy

Attest:

Clerk

MORRISON, MAHONEY & MILLER, LLP

COUNSELLORS AT LAW

250 SUMMER STREET
BOSTON, MASSACHUSETTS 02210-1181
617-439-7500
FACSIMILE 617-439-7590

Dennis R. Anti
Ext. 1250
danti@mail.mm-m.com

John C. Flahive
Extension 1247
jflahive@mail.mm-m.com

TOWER SQUARE
1500 MAIN STREET
SUITE 2400, POST OFFICE BOX 15387
SPRINGFIELD, MASSACHUSETTS 01115-5387
413-737-4373
FACSIMILE: 413-739-3125

MASSACHUSETTS BOSTON FALL RIVER SPRINGFIELD WORCESTER	CONNECTICUT HARTFORD NEW YORK NEW YORK ENGLAND LONDON
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September 16, 2003

Deborah S. Capeless, Clerk of Courts
Berkshire County Superior Court
Court House Building
76 East Street
Pittsfield, MA 01201


Re: Steven J. Santore v. Steven V. Coons and Dalton Health Group, LLC
Berkshire County Superior Court Docket No. BECV2003-00226

Dear Ms. Capeless:

Enclosed herewith for filing please find Uniform Counsel Certification and Answer of the defendant Steven V. Coons to Plaintiff's Complaint and Demand for Jury Trial.

Thank you for your attention in this regard.

Very truly yours,



Dennis R. Anti
John C. Flahive

DRA/JCF/rb
Enclosures

cc: (w/enclosures)
Mitchell I. Greenwald, Esquire

A True Copy

Attest

Clerk

Deborah S. Capeless
[Signature]

Commonwealth of Massachusetts

BERKSHIRE, ss.

SUPERIOR COURT

CIVIL ACTION

No. 03-226

Steven J. Santore, Sr., Plaintiff(s)

v.

Steven V. Coons, and
Dalton Health Group, LLCTHE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF SUPERIOR COURT

FILED

Defendant(s)
OCT 29 2003

FILED

SUMMONS

To the above-named Defendant: Dalton Health Group, LLC: 265 Main Street: Dalton, MA 01226

You are hereby summoned and required to serve upon Mitchell I. Greenwald,

plaintiff's attorney, whose address is 29 Wendell Avenue, Pittsfield, MA 01201

....., an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Pittsfield either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, ROBERT L. STEADMAN, Esquire at Pittsfield, the 27th day of October, in the year of our Lord ~~one thousand nine hundred and~~ 2003.

Richard S. Caplan
CLERK.

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
 (1) - TORT - (2) MOTOR VEHICLE TORT - (3) CONTRACT - (4) - EQUITABLE RELIEF - (5) - OTHER

A True Copy

Clerk

NOTICE TO DEFENDANT—You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

KATZ, MURPHY & GREENWALD
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
29 WENDELL AVENUE
PITTSFIELD, MASSACHUSETTS 01201-6300

THOMAS C. DOYLE
MITCHELL I. GREENWALD
DAVID W. MURPHY, JR.

DAVID C. KATZ (1964 - 1998)
SIDNEY I. KATZ (1930 - 1971)

TELEPHONE
(413) 443-5957
(413) 499-4747
FAX
(413) 445-5888

October 29, 2003

HAND-DELIVERED

Deborah S. Capeless, Clerk
Berkshire County Superior Court
76 East Street
Pittsfield, MA 01201

Re: Steven J. Santore, Sr. v. Steven V. Coons, and
Dalton Health Group, LLC.
Berkshire County Superior Court
Civil Action 03-226

Dear Ms. Capeless:

Enclosed for filing in connection with the above-referenced matter is the Return of Service as to Dalton Health Group, LLC. As to defendant, Steven V. Coons, service was made informally and an Answer has been filed.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

KATZ, MURPHY & GREENWALD

Mitchell I. Greenwald

A True Copy

Attest

Clerk

MIG:ob:L:\LIT\SANTORE\COURT2.WPD

Enclosure

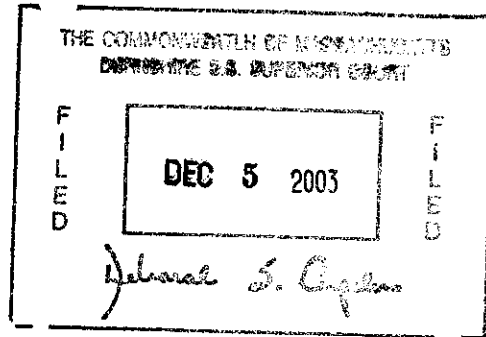
cc: Mr. Steven J. Santore, Sr.

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

SUPERIOR COURT
CIVIL ACTION NO. BECV2003-00226

STEVEN J. SANTORE, SR.,)
)
Plaintiff,)
)
V.)
)
STEVEN V. COONS and)
DALTON HEALTH GROUP, LLC,)
)
Defendants.)



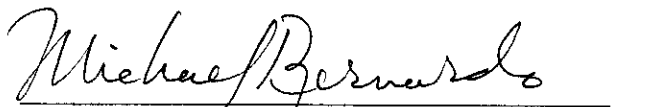
NOTICE OF APPEARANCE

Please enter our appearance on behalf of defendant Dalton Health Group, LLC in the above-captioned matter.

DALTON HEALTH GROUP, LLC,

By its attorneys,


Thomas E. Peisch BBO# 393260


Michael R. Bernardo BBO#648310
Conn Kavanaugh Rosenthal Peisch & Ford, LLP
Ten Post Office Square
Boston, MA 02109
(617) 482-8200

DATED: December 2, 2003

A True Copy

Attest:


Clerk

CERTIFICATE OF SERVICE

I, Michael R. Bernardo, hereby certify that on this date I served a copy of the foregoing Notice of Appearance on all parties by mailing a copy thereof, postage prepaid, to:

Mitchell I. Greenwald, Esq.
29 Wendell Avenue
Pittsfield, MA 01201

Dennis R. Anti, Esq.
1500 Main Street
Suite 2400
Springfield, MA 01115

A handwritten signature in cursive script that reads "Michael Bernardo". The signature is written in black ink and is positioned above a horizontal line.

Michael R. Bernardo, Esq.

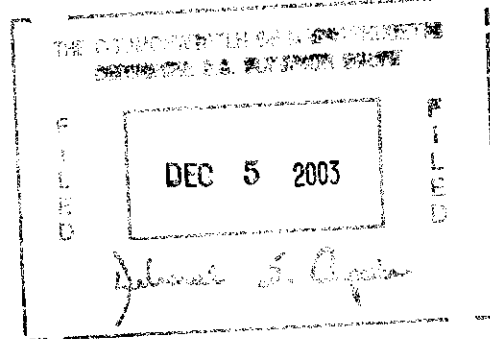
DATED: December 2, 2003

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

SUPERIOR COURT
CIVIL ACTION NO. BECV2003-00226

STEVEN J. SANTORE, SR.,)
)
Plaintiff,)
)
v.)
)
STEVEN V. COONS and)
DALTON HEALTH GROUP, LLC,)
)
Defendants.)



NOTICE OF FILING OF NOTICE OF REMOVAL

Please take notice that the defendant, Dalton Health Group, LLC, has filed a Notice of Removal of this action in the United States District Court For The District of Massachusetts. A certified copy of the Notice of Removal is attached hereto as Exhibit A. Please take further notice that, pursuant to 28 U.S.C. §1446(d), the filing of a copy of the Notice of Removal with the Berkshire Superior Court affects the removal and the Superior Court shall proceed no further unless and until the action is remanded.

Respectfully Submitted,

DALTON HEALTH GROUP, LLC,

By its attorneys,

Michael Bernardo

Thomas E. Peisch BBO# 393260
Michael R. Bernardo BBO#648310
Conn Kavanaugh Rosenthal Peisch & Ford, LLP
Ten Post Office Square
Boston, MA 02109
(617) 482-8200

DATED: December 2, 2003
188154.1

A True Copy

Attest:


Michael R. Bernardo
Clerk

CERTIFICATE OF SERVICE

I, Michael R. Bernardo, hereby certify that on this date I served a copy of the foregoing Notice of Filing of Notice of Removal on all parties by mailing a copy thereof, postage prepaid, to:

Mitchell I. Greenwald, Esq.
29 Wendell Avenue
Pittsfield, MA 01201

Dennis R. Anti, Esq.
1500 Main Street
Suite 2400
Springfield, MA 01115




Michael R. Bernardo, Esq.

DATED: December 2, 2003

188154.1

A True Copy



Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE

CIVIL ACTION NO.

2003 DEC -1 A 8: 52

U.S. DISTRICT COURT
DISTRICT OF MASS.

STEVEN J. SANTORE, SR.,)
)
Plaintiff,)
)
v.)
)
STEVEN V. COONS and)
DALTON HEALTH GROUP, LLC,)
)
Defendants.)

03 - 30288 - KPN

I HEREBY ATTEST AND CERTIFY ON 12/01/03
THAT THE FOREGOING DOCUMENT IS A FULL TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BY: Marystina

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1441, 1446 and Fed.R.Civ.P. 81(c), defendant, Dalton Health Group, LLC ("DHG"), hereby removes this action, which is currently pending in the Massachusetts Superior Court Department of the Trial Court, Berkshire County, Civil Action No. BECV2003-00226, to the United States District Court For the District of Massachusetts. As reasons therefore, DHG states the following:

1. This Notice of Removal is being filed within thirty (30) days of DHG's receipt of the attached Complaint and Jury Demand on or about October 27, 2003.
2. This Court has subject matter jurisdiction over this action based upon diversity of citizenship pursuant to 28 U.S.C. §1332(a)(2) and the fact that the amount or value in controversy exceeds the statutory limit of Seventy-Five Thousand Dollars (\$75,000) under 28 U.S.C. §1332(b). Specifically, the plaintiff, Steven J. Santore, Sr., is now and was at the time of commencement of this action, a resident at 74 White Road, Ballston Spa, New York 12020-2118, and the corporate defendant, DHG, is now, and was at the commencement of this action, a citizen of

A TRUE COPY
Attest: [Signature] Clerk

log of Judge CF
+ cert copy
to CL

Massachusetts, with a place of business at 254 Main Street, Dalton, Massachusetts. The co-defendant, Steven V. Coons, also is now, and was at the commencement of this action, a citizen of Massachusetts, with a place of residence at 400 South Street, Pittsfield, MA 01201. The amount or value in controversy exceeds Seventy-Five Thousand Dollars (\$75,000) for the alleged negligence of the defendants.

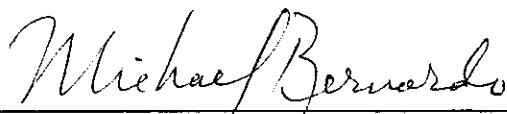
3. Written notice of the filing of this Notice of Removal will be given to all adverse parties and to the Clerk of the Berkshire Superior Court as required by law.
4. Copies of the Summons, Complaint, and Civil Action Cover Sheet served upon DHG from the state court action are attached hereto as Exhibit A.

For the foregoing reasons, defendant, Dalton Health Group, LLC removes this action to this Court.

Respectfully Submitted,

DALTON HEALTH GROUP, LLC,

By its attorneys,



Thomas E. Peisch BBO# 393260
Michael R. Bernardo BBO#648310
Conn Kavanaugh Rosenthal Peisch & Ford, LLP
Ten Post Office Square
Boston, MA 02109
(617) 482-8200

DATED: November 26, 2003

188153.1

A True Copy

Attest

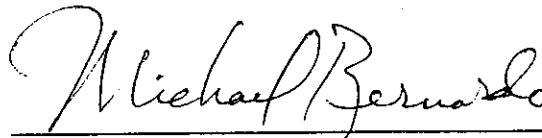
Clerk

CERTIFICATE OF SERVICE

I, Michael R. Bernardo, hereby certify that on this date I served a copy of the foregoing Notice of Appearance on all parties by mailing a copy thereof, postage prepaid, to:

Mitchell I. Greenwald, Esq.
29 Wendell Avenue
Pittsfield, MA 01201

Dennis R. Anti, Esq.
1500 Main Street
Suite 2400
Springfield, MA 01115



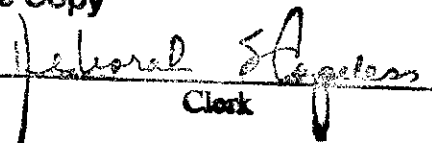
Michael R. Bernardo, Esq.

DATED: November 26, 2003

188165.1

A True Copy

Attest:



Clerk

Commonwealth of Massachusetts

COPY

BERKSHIRE, ss.

SUPERIOR COURT

CIVIL ACTION

No. 03-226

A TRUE COPY ATTEST:
 DONALD MARCELLA, DEPUTY SHERIFF
 BERKSHIRE COUNTY
 DATE OF SERVICE 10/27/03

Steven J. Santore, Sr., Plaintiff(s)

v.

Steven V. Coons, and
 Dalton Health Group, LLC
 Defendant(s)

SUMMONS

To the above-named Defendant: Dalton Health Group, LLC; 265 Main Street; Dalton, MA 01226

You are hereby summoned and required to serve upon Mitchell I. Greenwald

plaintiff's attorney, whose address is 29 Wendell Avenue, Pittsfield, MA 01201

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Pittsfield either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, ROBERT L. STEADMAN, Esquire at Pittsfield, the 27th day of October, in the year of our Lord ~~one thousand nine hundred and~~ 2003.

Richard S. Capelen
 CLERK.

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
 (1) - TORT - (2) MOTOR VEHICLE TORT - (3) CONTRACT - (4) - EQUITABLE RELIEF - (5) - OTHER

A True Copy

Attest

Clerk

NOTICE TO DEFENDANT—You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 19____, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

Dated: _____, 10_____

N.B. TO PROCESS SERVER:—

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

_____, 19____

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

SUPERIOR COURT
CIVIL ACTION

No. 03-226

Steven J. Santore, Sr.,
Plff(s).

Steven V. Coons, and
Dalton Health Group, LLC
Def(s).

SUMMONS
(Mass. R. Civ. P. 4)

A True Copy

Attest

Clerk

COBA

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

SUPERIOR COURT
C. A. 03-226

STEVEN J. SANTORE, SR.,

Plaintiff

v.

STEVEN V. COONS, and DALTON
HEALTH GROUP, LLC.

Defendants

COMPLAINT AND JURY DEMAND

1. This is an action for personal injuries arising out of an automobile accident.

PARTIES

2. Plaintiff Steven J. Santore, Sr. resides at 74 White Road, Ballston Spa, New York 12020-2118.

3. Defendant Steven V. Coons resides or did reside at 400 South Street, Pittsfield, Massachusetts 01201.

4. Defendant Dalton Health Group, LLC ("DHC"), is a Massachusetts limited liability company which does business as Craneville Place of Dalton at 265 Main Street, Dalton, Massachusetts.

FACTS

5. On August 2, 2000, plaintiff, a driver for Roadway Express, was assigned to make a delivery at the Dalton facility of defendant DHC. When he arrived at the said facility, it was clear to him that his truck would not be able to access the driveway, and he had been given no alternative delivery instructions. Accordingly, he stopped in front of the facility; taking all reasonable safety precautions, got out of the truck, and went to the rear of the truck to unload the goods.

6. While stepping down from the rear of his truck while preparing to unload, plaintiff was struck by a vehicle owned and operated by defendant Coons.

A True Copy

Attest

Clerk

7. As a result of said collision, plaintiff has incurred medical expenses in an amount exceeding \$17,538.00. He has suffered lost earnings in the amount of at least \$32,935.00. He has suffered continued pain of body and mind and continued disability, and may need further surgery.

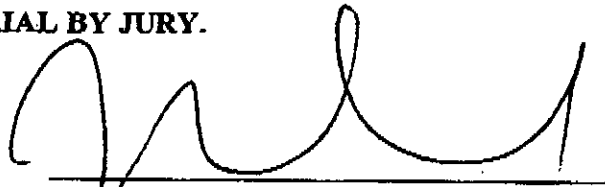
CLAIMS

8. The said injuries and damages were caused in part by the negligence of the defendant Coons in operating his motor vehicle.

9. The said injuries and damages were caused in part by the negligence of the defendant DHC in not providing and communicating a location and method for delivery of goods which was reasonably safe for the driver of the delivery vehicle.

WHEREFORE PLAINTIFF PRAYS:

1. That the Court award his damages to compensate him for his losses.
2. That the Court award such other relief as is just and equitable.
3. **PLAINTIFF DEMANDS A TRIAL BY JURY.**



MITCHELL I. GREENWALD
Attorney for Plaintiff
Katz, Murphy & Greenwald
A Professional Corporation
29 Wendell Avenue
Pittsfield, MA 01201
(413) 443-5957
BBO#: 542032

MIG:ob:L:\LIT\SANTORE\COMPLAIN.WPD

**CIVIL ACTION
COVER SHEET**

Case 3:03-cv-30283-MAP Document 6 Filed 12/09/2003 Page 28 of 30

Superior Court Department
County:

PLAINTIFF(S)

STEVEN J. SANTORE

DEFENDANT(S)

STEVEN COONS and
DALTON HEALTH GROUP, LLC

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (413) 443-5957
Mitchell I. Greenwald
Katz, Murphy & Greenwald
29 Wendell Avenue, Pittsfield, MA 01201
Board of Bar Overseers number: 542032

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
☐ 2. F02 Removal to Sup.Ct. C.231,s.104
(Before trial) (F)
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B03 Personal Injury (Y) (X) Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses	\$ 6,190.00
2. Total Doctor expenses	\$ 2,969.00
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$ 3,016.00
5. Total other expenses (describe) .. Miscellaneous Medical Expenses	\$ 5,363.00
Subtotal	\$ 17,538.00

B. Documented lost wages and compensation to date

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses \$

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Left knee injury, including pre-patellar cyst (surgically removed) and chondromalacia of medial femoral condyle; lumbar and left hip injury.

TOTAL \$ 50,473.00

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

A True Copy

DATE 12/11/03

Attest

Clerk

CIVIL ACTION COVER SHEET
INSTRUCTIONS

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE.

CONTRACT		REAL PROPERTY		MISCELLANEOUS	
A01	Services, labor and materials (F)	C01	Land taking (eminent domain) (F)	E02	Appeal from administrative Agency G.L. c. 30A (X)
A02	Goods sold and delivered (F)	C02	Zoning Appeal, G.L. c. 40A (F)	E03	Action against Commonwealth Municipality, G.L. c. 258 (X)
A03	Commercial Paper (F)	C03	Dispute concerning title (F)	E05	All Arbitration (X)
A08	Sale or lease of real estate (F)	C04	Foreclosure of mortgage (X)	E07	c.112,s.125 (Mary Moe) (X)
A12	Construction Dispute (A)	C05	Condominium lien and charges (X)	E08	Appointment of Receiver (X)
A99	Other (Specify) (F)	C99	Other (Specify) (F)	E09	General contractor bond, G.L. c.149,s.29,29a (A)
TORT		EQUITABLE REMEDIES		E11	Workman's Compensation (X)
B03	Motor Vehicle negligence-personal injury/property damage (F)	D01	Specific performance of contract (A)	E14	Chapter 123A Petition-SDP (X)
B04	Other negligence-personal injury/property damage (F)	D02	Reach and Apply (F)	E15	Abuse Petition, G.L.c.209A (X)
B05	Products Liability (A)	D06	Contribution or Indemnification (F)	E16	Auto Surcharge Appeal (X)
B06	Malpractice-medical (A)	D07	Imposition of Trust (A)	E17	Civil Rights Act, G.L.c.12,s.11H (A)
B07	Malpractice-other(Specify) (A)	D08	Minority Stockholder's Suits (A)	E18	Foreign Discovery proceeding (X)
B08	Wrongful death, G.L.c.229,s.2A (A)	D10	Accounting (A)	E96	Prisoner Cases (F)
B15	Defamation (Libel-Standard) (A)	D12	Dissolution of Partnership (F)	E97	Prisoner Habeas Corpus (X)
B19	Asbestos (A)	D13	Declaratory Judgment G.L.c.231A (A)	E99	Other (Specify) (X)
B20	Personal Injury-Slip&Fall (F)	D99	Other (Specify) (F)		
B21	Environmental (A)				
B22	Employment Discrimination (F)				
B99	Other (Specify) (F)				

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUPERIOR COURT RULE 29

DUTY OF THE PLAINTIFF. The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

DUTY OF THE DEFENDANT. Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.

FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.

A True Copy

Attest: *[Signature]*
Clerk

CONN KAVANAUGH ROSENTHAL PEISCH & FORD, LLP

C O U N S E L L O R S A T L A W

Ten Post Office Square, Boston, Massachusetts 02109

Tel: (617) 482-8200

Fax: (617) 482-6444

WRITER'S DIRECT DIAL: 617-348-8297

E-MAIL: MBERNARDO@CKRPF.COM

December 2, 2003

THOMAS E. PEISCH
BOB B. ROSENTHAL
JAMES F. KAVANAUGH, JR.
RUSSELL F. CONN
GEORGE M. FORD
JAMES B. PELOQUIN
BARRY E. GOLD
THOMAS J. GALLITANO
CHRISTOPHER J. PETRINI
JAMES GRAY WAGNER
ERIN K. HIGGINS
STEPHEN S. CHURCHILL
STEVEN B. GURDIN

MICHAEL T. SULLIVAN
KURT B. FLIEGAUF
RONALD M. JACOBS
CAROL A. STARKE
JENNIFER M. NORTON
JAY P. SYMONDS
SARA L. GOODMAN
CHRISTINA M. VITKOVICH
MICHAEL R. BERNARDO
CARA A. FAUCI
JOHANNA L. MATLOFF
AMY C. STEWART

Civil Clerk's Office
Berkshire Superior Court
76 East Street
Pittsfield, MA 01201

Re: Santore v. Dalton Health Group, LLC, et al
Berkshire S/C C.A. No. BECV2003-00226

Dear Sir/Madam:

Enclosed for filing please find:

1. Notice of Appearance; and
2. Notice of Filing of Notice of Removal.

Please forward to my attention a certified or attested copy of all records and proceedings in the court including the docket entries in connection with the above-referenced matter. I am required to file the certified or attested copies in Federal Court.

Thank you for your assistance.

Very truly yours,

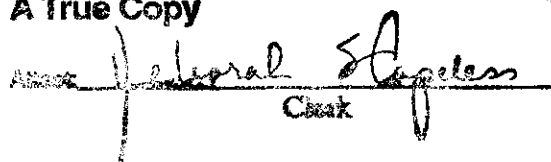

Michael R. Bernardo

MRB/lm:1735-161

Enclosures

cc: Thomas E. Peisch, Esq.
Ms. Trisha Bragdon
Mitchell I. Greenwald, Esq.
Dennis R. Anti, Esq.

A True Copy


Chak

PROOF OF SERVICE OF PROCESS

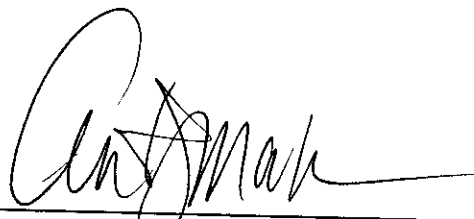


Office of the Sheriff • 467 Cheshire Road • Pittsfield, MA 01201 • 413-443-6841
Berkshire, ss.

October 28, 2003

I hereby certify and return that on 10/27/2003 at 2:35:00 PM I served a true and attested copy of the Summons & Complaint and Jury Demand, Civil Action Cover Sheet in this action in the following manner: To wit, by delivering in hand to Tricia Bragdon, Administrator of Craneville Place, Dalton Health Group, LLC at 265 Main Street, Dalton, MA 01226 Craneville Place. Attestation (\$5.00), Conveyance (\$2.10), Copies (\$0.50), Postage & Handling (\$1.00), Service Fee (\$30.00), Travel (\$4.48) Total Charges \$43.08

Deputy Sheriff, Antonio J. Marcella


Deputy Sheriff

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

_____, 19 ____

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

SUPERIOR COURT
CIVIL ACTION

No. 03-226

Steven J. Santore, Sr., Plff(s).

v.

Steven V. Coons, and
Dalton Health Group, LLC
....., Deft(s).

SUMMONS

(Mass. R. Civ. P. 4)